United Nations S/2004/429

Security Council

Distr.: General
26 May 2004

Original: English

Letter dated 17 May 2004 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 9 October 2003 (S/2003/1001). The Counter-Terrorism Committee has received the attached supplementary report from Timor-Leste submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Inocencio F. **Arias**
Chairman
Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

04-37105 (E) 100604

Annex

Note verbale dated 17 May 2004 from the Permanent Mission of Timor-Leste to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

The Permanent Mission of the Democratic Republic of Timor-Leste to the United Nations presents its compliments to the Counter-Terrorism Committee and has the honour to transmit herewith the report of the Government of the Democratic Republic of Timor-Leste, in accordance with paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001 (see enclosure). A copy of the report also has been forwarded to the Counter-Terrorism Committee by electronic mail.

Enclosure

Democratic Republic of Timor-Leste

Report to the Counter-Terrorism Committee of the Security Council pursuant to paragraph 6 of Security Council resolution 1373 (2001)

The Government of Timor-Leste condemns in the strongest terms the terrorist attacks committed in Madrid on March 11, which resulted in the loss of lives of a great number of innocent people targeted by the extremists that undermine all democratic regimes.

Timor-Leste is fully committed to cooperating with the United Nations, its Member States and particularly with the Counter-Terrorism Committee.

No country is safe from such attacks or from the use of its territory for the practice of terrorist actions. Any strategy aimed at eliminating this dangerous threat to international peace and security must be a common strategy with the participation of the largest number of members of the international community and in which the United Nations should play a leadership role.

After a long, hard and successful struggle for independence, the maintenance of peace and security has become a high priority for Timor-Leste. Accordingly, upon joining the United Nations on 27 September 2002, Timor-Leste immediately assumed its counter-terrorism obligations pursuant to Security Council Resolution 1373 (2001). The Government of Timor-Leste recognizes and appreciates the necessity for international cooperation in order to combat terrorism. However, as a new country, its financial and human resources are limited and much must still need to be done to enact and implement legislation in many areas necessary for governance as well as counter-terrorism.

The difficult task of building the human and institutional capacities and the necessary infrastructures requires time and the continued support of the international community as the challenges of creating a legal framework/system from scratch are enormous and cannot be met overnight. In relation to the legislative process, the Government has prioritized the adoption of laws for the foundation of the State. Gradually the legal vacuum in Timor-Leste is being filled.

In order to strengthen its legal infrastructure, the Government of Timor-Leste is pursuing a two-track approach, namely the drafting and promulgation of national laws and the ratification of, or accession to, the relevant international conventions. This exercise needs to be accompanied by the building of the capacity of its institutions to implement and operate within this framework.

Furthermore, it is Timor-Leste's strongest belief that there shall be no trade-off between effective action to combat terrorism and the protection of human rights. This principle must guide all the legal and institutional frameworks building process that countries may undertake to address the issue of terror.

As declared by the United Nations Secretary-General before the General Assembly last year, in the long, term we shall find that human rights, along with democracy and social justice, are one of the best instrument to prevent and counter terrorism. A successful campaign to

eradicate terrorism needs to address the long-term challenges enumerated in the Millennium Declaration. If we allow economic and social problems to persist, they will be exploited for destructive purposes.

We must tackle these problems working jointly and simultaneously to promote economic and social development in order to fully participate in the international campaign against international terrorism. This requires resources to meet these goals. Developed countries should assume their responsibility for this global threat and make a strong commitment to assist developing countries to meet these demands. Developing countries cannot divert their already scarce resources away from development goals without becoming a breeding ground for terrorism.

The Government of Timor-Leste has appealed, in several regional fora, to the international community to assist developing countries to establish a coordinated and comprehensive approach to terrorism, by providing financial assistance and training.

At the Regional Ministerial Meeting on counter-terrorism, which took place in Bali, Indonesia, from 4 to 5 February 2004, the Minister of Foreign Affairs and Cooperation urged developed countries, as well as international, regional and sub-regional organizations, to assist developing and least developed countries in meeting their international and national obligations to fight terrorism, which includes the allocation of the necessary financial resources to implement such obligations.

Unfortunately there has been no concrete response to these appeals and small developing countries are still struggling with the need to find resources to meet the additional burden of their participation in fighting international terrorism.

Sub-paragraph 1 (a), (b), (c) and (d):

Could the Government of Timor-Leste therefore provide the CTC with an outline of the relevant provisions under its draft national legislation(s), which meet or purport to meet the measures envisaged in these sub-paragraphs, and, in particular, which are intended to give to the International Convention for the Suppression of the Financing of Terrorism Sub-paragraph 1?

1. **Regulation No. 2000/8** promulgated by the United Nations Transitional Authority for East Timor (UNTAET) on Bank licensing and supervision regulates the banking system in Timor-Leste in accordance with the recommendations of the International Monetary Fund and international best practices.

In addition, UNTAET **Regulation No. 2001/30** established the Banking and Payments Authority for East Timor (BPA) for the purpose of providing efficient payments and sound banking systems and operates as Timor-Leste's Central Bank. In July 2003 the Governing Board of the Banking and Payments Authority issued **Instruction No. 03/2003** on the Opening and Maintenance of Deposit Accounts, under which all banks operating in the territory of Timor-Leste are requested to maintain complete identification of depositors to prevent the banking system from being used for money laundering and criminal activities.

2. Given the fact that Timor-Leste has not already adopted any legislation on Anti-Money Laundering and Combating the Financing of Terrorism (AML/CFT) and the BPA

staff has no experience in such matters, in February 2004 the BPA requested the International Monetary Fund (IMF) for technical assistance in drafting an AML/CFT bill. Following this request, the IMF under the following terms of reference contracted two international experts:

- Scrutinize existing legislation pertaining to banking and other laws of relevance to a future AML/CFT legislation;

- Advise on the need for a sound legal and institutional framework that is in line with current international best practices, the 40 Recommendations of the Financial Action Task Force on Money Laundering (FATF), as revised in June 2003, the Special Eight Recommendations, and relevant UN Conventions;

- Develop an AML/CFT action plan, together with strategies for the effective implementation of an AML/CFT regime;

- Assist the BPA in the initial drafting of AML/CFT risk-based inspection procedures and conduct a training workshop on AML/CFT legal and implementation issues for BPA supervisory staff.

It is envisaged that the draft text will be ready by mid 2004, at which time the document will be circulated to all relevant Ministries for comments prior to consultations with the Council of Ministers and submission to the National Congress for approval.

3. In addition, the Government of Timor-Leste is considering its accession to the International Convention for the Suppression of the Financing of Terrorism (1999) as a matter of priority. Once the final report of the IMF international experts will be issued, the Government will set up a Working Group on the measures and mechanism to be established in order to ensure full implementation and enforcement of the provisions contained in the Convention.

4. In August 2003, Timor-Leste participated in the "Basic Analysis and Suspicious Transaction Reporting" workshop organized by the Southeast Asia Regional Centre for Counter-Terrorism in Kuala Lumpur, Malaysia. The workshop provided participants with skills on how to collect, analyze and share data supplied by financial institutions as well as strengthening the ability of financial institutions to gather and disseminate information regarding money laundering trends and techniques. Throughout the workshop particular emphasis was made on the financing systems of terrorist groups.

Sub-paragraph 2 (a):

Sub-paragraph 2 (a) of the Resolution requires each State, *inter alia*, to criminalize the recruitment of terrorists within its territory and deny them any supply of weapons. Could the Government of Timor-Leste explain to the CTC how its national legislation meets this requirement?

1. Since its independence in May 2002, Timor-Leste has been engaged in a challenging transitional process to become a solid democracy and a fully functioning member of the community of free nations. The difficult and necessary task of building human and institutional capacities and functioning infrastructures requires time and the continued support of the international community. In relation to the legislative process, the Government

has prioritized the adoption of laws for the foundation of the State, such as for instance, the reform of the criminal justice system. In respect to this particular aspect, Timor-Leste is currently taking into consideration the entirety of the requirements of Security Council Resolution 1373 (2001) including the prevention and suppression of the financing of terrorist acts, criminalization of money laundering or any willful facilitation of terrorist financing, as well as the freezing of all economic resources of those people who commit or facilitate terrorist activity.

A team of international and national experts in criminal matters, with the technical cooperation and financial support of the Ministry of Justice of Portugal, is in the process of drafting the Criminal Code and a draft Code of Criminal Procedure respectively. These codes will contain all necessary provisions in order to prevent and suppress transnational organized crime, including terrorism, and set all administrative measures in order to guarantee and enhance international cooperation in criminal matters.

2. Pending the adoption of a new criminal law framework, some provisions contained in the Indonesian Criminal Code are still applicable in the territory of Timor-Leste[1].

(i) With regard to the recruitment of terrorists, the Indonesian Penal Code criminalizes any personal conduct aimed at inciting or inducing the commission of a crime. These provisions, contained in **Article 160**[2] and in **Article 163 bis**[3], **Book II on Crimes, Chapter V on Crimes against the public order**, can constitute a legal basis to prevent the recruitment of individuals for any terrorist purpose. In addition, under the provisions of **Article 187, Book II on Crimes, Chapter VII on Crimes whereby the general security of persons or property is endangered**: "any person who with deliberate intent sets fire, causes explosion or causes a flood, shall be punished: first, by a maximum imprisonment of twelve years, if thereby general danger to property is feared; second, by a maximum imprisonment of fifteen years if thereby danger of life for another is feared; and third, by [life imprisonment or][4] a maximum temporary imprisonment of twenty years if thereby danger of life for another is feared and the act result in the death of someone".

(ii) With regard to the supply of weapons to terrorists, **Article 187 bis, Book II on Crimes, Chapter VII on Crimes whereby the general security of persons or property is endangered**, punishes the transport or import of all objects or/and material that can potentially cause explosion and endanger life or property[5].

---

[1] According to Article 165 (Previous Law), Constitution: "Laws and regulations in force in Timor-Leste shall continue to be applicable to all matters except to the extent that they are inconsistent with the Constitution and the principles contained therein".

[2] "Any person who orally or in writing incites in public to commit a punishable act, a violent action against the public authority or any other disobedience, either to a statutory provision or to an official order issued under a statutory provision, shall be punished by a maximum imprisonment of six years (...)".

[3] "Any person who by one of the means mentioned in Article 55 (2) attempts to induce others to commit a crime, shall, if it does not result in the crime or a punishable attempt thereto, be punished by a maximum imprisonment of six years (...)".

[4] This provision does not apply to Timor-Leste for its incompatibility with Article 32 (1) of the Constitution.

[5] "(1) The person who produces, receives, tries to procure, has in store, conceals, transports or imports into [Indonesia] stuffs, objects or tools of which he knows or reasonably must suspect that they are intended or will occasionally be used to cause an explosion, whereby danger of life or general danger to property is feared, shall be punished by a maximum imprisonment of eight years or a maximum light imprisonment of one year. (2) The defectiveness of the stuff, objects or tools referred to in the foregoing paragraph, in causing an explosion above described, shall not exempt from liability to punishment".

3. In October 2003, the National Congress of Timor-Leste adopted the **Immigration and Asylum Law No. 9/2003**, which contains, *inter alia*, several provisions that can constitute the legal basis for criminal prosecution and applications of administrative measures:

(i) **Article 63, Chapter X, Section I**: "The foreigner who commits acts against national security or public order is subject to deportation from the National Territory, but is not exempt from criminal responsibility".

(ii) **Article 82, Chapter XI, Criminal Association:** "(1) All persons who create a group, organization or association whose activities are geared to the commission of the crimes described in the previous Articles [aid to illegal immigration, illegal solicitation of labor and human trafficking] shall be punished by imprisonment of not more than 5 years not fewer than 2 years; (2) The same penalties apply to all members of such groups, organizations or associations; (3) The leaders of those groups, organizations or associations described in the previous paragraph shall be punished by imprisonment of not more than 15 years not fewer than 5 years."

Sub-paragraph 2 (b):

The CTC notes that Timor-Leste is a member of Interpol and actively cooperates with Interpol as indicated at page 3 of its first report. The CTC would welcome receiving an outline of the relevant domestic provisions aimed at providing early warning and exchanging information with other States.

1. Timor-Leste has been a Member State of the International Criminal Police Organization (ICPO-Interpol) since 20 October 2002. In compliance with its legal obligations to cooperate in criminal matters and, in particular, to counter terrorism, a National Central Bureau (NCB) was established in 2003 within the Department for Operations and Strategic Information of the National Police of Timor-Leste UNPOL/PNTL[6].

2. In September 2002, the Pacific Island Forum (PIF) and the South Pacific Chiefs of Police Conference (SPCPC) noted that the various South Pacific Police organizations were not taking advantage of electronic methods of information sharing and secure communications did not exist on a majority of the Islands. Some Law enforcement agencies were connected by insecure Internet Service Providers (ISP) or web mail but the majority was connected by fax. The Interpol member countries of the South Pacific used International dialing to download Interpol mail only. To improve this situation and expand the cooperation and communication between the various police forces, the Australian Federal Police (AFP) proposed to implement a new method that would involve the use of South Pacific local ISP and Virtual Private Network technology. This system was sponsored by the AFP Law Enforcement Cooperation Program (LECP) to enable installation and supply of equipment. The system, to which in Timor-Leste is connected to, is called South Pacific Law Enforcement Extra Net (SplexNet).

The SplexNet provides UNPOL/PNTL with up to date information on a variety of law enforcement matters, particularly on counter terrorism. This exchange of information between law enforcement agencies is based on the fundamental principle that the information

[6] From the Portuguese official name: "Policia Nacional de Timor-Leste".

will be used for law enforcement purposes only, as required by the ICPO-Interpol Chart. The capacity of the National Police to deal with these systems need to be reinforced through training and material resources.

3. Since its creation, the Office of the General Prosecutor of Timor-Leste has received 1,138 international warrants issued by Interpol for a top priority list of terrorists to be monitored in case they enter, or attempt to enter, the national territory. Due to a lack of human and economic resources, Timor-Leste's authorities are unable to process and give duly enforcement to this information. It is of crucial importance that the international community provides Timor-Leste technical and financial assistance in order to implement all necessary measures to counter terrorism and international organized crime.

4. In order to ensure democratic order and internal stability and, *inter alia*, prevent criminality, acts of terrorism and sabotage, the National Congress passed the **Internal Security Act No. 8/2003.** The internal security activity will be carried out under the terms of criminal law and procedures, laws on the National Police and Security Services and all other relevant laws and provisions[7].

All security forces and services called to implement and enforce the provisions under the terms of the Internal Security Act No. 8/2003 are bound by reciprocal duty of cooperation, mainly through reciprocal transmission of data not subject to a special reservation or protection regime and that are indispensable to achieve the purposes of the Act[8].

In addition, international cooperation in criminal matters must be carried out within the framework of the international commitments and the applicable rules of international law, in cooperation with bodies and services of foreign States or International Organizations to which Timor-Leste is party[9].

In this respect, the Timorese competent Authorities, in cooperation with the UNPOL/PNTL and the United Nations Peace-keeping Forces (PKO)[10], and the Indonesian Authorities are engaged in a process of regular and constant exchange of relevant information. The Tactical Coordination Working Group of personnel of the PKF, the Indonesian Army and the Timorese Border Patrol Unit meets on a monthly basis to assess questions and analyze information of crucial importance for both parts.

5. As mentioned *infra* in sub-paragraph 2 (f), the Government of Timor-Leste entered in two special bilateral Agreements with the Government of Australia, which aim at exchanging information, cooperating against people smuggling and at countering terrorism.

[7] See Article 1 (Definition), Chapter 1.
[8] See Article 6 (Cooperation of the Security Forces), Chapter 1.
[9] See Article 4 (Scope of competence), Chapter 1.
[10] Established pursuant to Security Council Resolution 1410 (2002).

Sub-paragraph 2 (c):

The CTC welcomes Timor-Leste's determination not to turn into a safe haven for terrorist. Could Timor-Leste outline the legislative provisions, which ensure that those who commit offences under Sub-paragraph 2 (c) of the Resolution are denied safe haven.

1. As mentioned above in sub-paragraph (a), the National Congress adopted the Immigration and Asylum Law No. 9/2003, which contains several provisions to control the entry or exit from the territory of Timor-Leste and set out strict procedural administrative mechanisms of expulsion from the National Territory.

(i) Under the provisions of Law No. 9/2003, entry into the National Territory shall be refused to aliens who do not fulfill the general legal requisites to be admitted in Timor-Leste, and also to those aliens who constitute a risk or a serious threat to health, public law and order or to the international relations of the Democratic Republic of Timor-Leste[11].

In addition, entry into the National Territory shall also be refused, and a record shall be kept of aliens for whom there are strong elements that indicate they have committed or intend to commit an what qualifies as a war crime, or an act of terrorism or an act contrary to the principles of the rule of law[12].

When the denial of entry is based on the presentation of counterfeit, false, belonging to someone else, or fraudulently obtained documents, the same shall be confiscated and sent to the Department of Migration of the PNTL[13].

The power to deny entry into or exit from the National Territory is vested in the Director of the National Police of Timor-Leste, who may delegate the said power to the Head of the Department of Migration of the PNTL[14] and further sub-delegate to the officers responsible at the border control points[15].

(ii) Deportation from the National Territory of a foreign citizen, pursuant to an administrative decision and without prejudice to provisions in international treaties or conventions Timor-Leste is a party to, is envisaged should he/she commits acts against national security, public order or good moral[16].

2. In order to give proper implementation to the provisions contained in the Immigration and Asylum Law, the Government established the Migration Department of the PNTL (Ministry of Internal Affairs). The Head of the Migration Department has the authority to start deportation proceedings and the Migration Department has the authority to enforce the deportation order[17]. Within the Department of Migration there are five sub-divisions, whose

---

[11] See Article 15 (Denial of Entry), Chapter 1.

[12] See Article 29.1 (e) (Refusal of Entry), Chapter 1.

[13] See Article 23 (Confiscation of Travel Documents), Chapter 1.

[14] See *infra* p. 9.

[15] See Article 22 (Power to Deny Entry and Exit), Chapter 1.

[16] See Article 63.1 (b) (Basis for Deportation), Chapter X.

[17] See Articles 66 (Authority over the Deportation Process) and 67 (Authority to Enforce the Decision), Chapter X. See also Internal Security Act No.9/2003, Chapter 1, Article15 (d) (Police Measures).

core functions are the detection and prevention of illegal immigration, people smuggling and terrorism.

3. The acquisition of Timorese citizenship is ruled by the Constitution on the basis of principles of *jure sanguinis* and *jure solis*[18]. Nevertheless, under the provision of the **Citizenship Law No. 9/2002** conviction of a crime against the internal or external security of the State of Timor-Leste, shall constitute grounds for denying the acquisition of Timorese citizenship or its reacquisition[19].

Sub-paragraph 2 (d) and (e):

Effective implementation of sub-paragraph 2 (d) and (e) of the Resolution requires each State to make it a criminal offence for anyone to use its territory for the purpose of committing a terrorist act against another State or its citizens or for the purpose of financing, planning and facilitating terrorist acts against another State or its citizens, whether or not a related terrorist act has been committed or attempted.

Pending the adoption of the Criminal Code and any necessary ad *hoc* anti-terrorism legislation, the procedure outlined in sub-paragraph 1 (1) and 2 (a) above is applicable.

Sub-paragraph 2 (f):

Will a special law be enacted in Timor-Leste in relation to mutual assistance in criminal matters? Are the principles of reciprocity and/or comity to be applied in that regard?

1. As mentioned above, although Timor-Leste is in the process of building its institutions, including its criminal justice system, the Government considers a top priority the drafting of a comprehensive legislation on transnational justice and international cooperation in criminal matters, including extradition and mutual legal assistance.

2. Meanwhile, the Government of Timor-Leste signed two Memoranda of Understanding with the Government of Australia concerning the following matters:

(i) Exchange of Information and Mutual Cooperation in Combating Illegal Immigration and People Smuggling, signed in Bali, Indonesia, on 28 February 2002;

(ii) Co-operation to Combat International Terrorism, signed in Adelaide, Australia, on 25 August 2003.

Sub-paragraph 2 (g):

Could Timor-Leste outline its current provisions relating to (1) border control and (2) the issuance of identity papers and (3) travel documents, particularly those which are directed at preventing the movement of terrorist or terrorist groups?

According to its mandate, the United Nation Mission of Support to East Timor (UNMISET) is called to provide, *inter alia*, interim law enforcement and public security, to

[18] See Constitution, Part I, Article 3 (Citizenship).
[19] See Article 16 (c), Chapter V.

assist in the development of the National Police and to contribute to the maintenance of the external and internal security. In addition, UNMISET is required to implement the following three programs of the Mandate Implementation Plan as set out in section III A 3 of the report of the Secretary-General of 17 April 2002: (1) Stability, Democracy and Justice; (2) Public Security and Law Enforcement; and (3) External Security and Border Control[20].

UNMISET's capacity building strategy includes general measures to maintain peace, law and order in the country, as well as to combat terrorism. In particular, the Knowledge Transfer Program carried out by PKF, aims at training four senior officers of the Timorese Army (Falintil-Forcas da Defesa de Timor-Leste) on, *inter alia*, information processing and analyzing.

Due to the challenges posed by the process of transition, all efforts that the Government of Timor-Leste is currently undertaking on counter terrorism and their success in the medium and long term depend greatly on UNMISET' Peace Keeping Force and UNPOL' technical assistance and training programs. As stated before, Timor-Leste is willing, but unable to sustain counter terrorism practices on the border without constant presence and assistance of the international community. Based on this critical situation, the Government of Timor-Leste recently formally requested a further extension of UNMISET's mandate before the Security Council.

1. Border control

(i) Along the border with the Republic of Indonesia, Timor-Leste has 15 land crossing stations, which are monitored by Immigration and Custom officers and the Border Patrol Unit. Although the control of the border entries rests with the national authorities, the responsibility for dealing with external threats rests, until May 2004, with the UNMISET Peacekeeping Force (PKF) that maintains its patrol zone in the vicinity area of Memo (Maliana) and Suai, known as "PKF Patrol Zone".

(ii) Timor-Leste has also two international airports, which activities are regulated by the provisions of the **Civil Aviation Decree-Law No. 1/2003** that comply with the standards of the International Civil Aviation Organization (ICAO). Several restrictive provisions of Law 1/2003 aim at preventing possible terrorist movements within the National Territory[21].

(iii) Entry into and exit from the National Territory of all individuals can only be made through the border points control and monitored by the immigration authorities that may deny entry into the National Territory to an alien who is not in possession of a valid travel document or visa permission to enter Timor-Leste[22].

Timor-Leste continues to apply the policy of "visa on arrival", as regulated in the Law No. 9/2003, especially due to the fact that the Timorese consulates abroad have not yet implemented the system of issuing visas[23].

---

[20] See document S/2002/432.

[21] See Articles 9 – 11, Chapter II (Limits).

[22] See Immigration and Asylum Law No. 9/2003, Article 13 (Border Controls).

[23] See Articles 17 (Entry Visa), 18 (Means of Support), 19 (Purpose and Conditions for Staying), Chapter III and 30 (Places of Issue), Chapter 30.

2. Identity papers and travel documents

(i) Under the provision of Law 9/2003, in order to enter into or exit from the National Territory, aliens must carry their passports or other recognized travel document otherwise the Department of Migration may resort to the most common forms of identification, namely photos and fingerprints, in order to establish or to confirm the identity of the alien[24].

(ii) The **Civil Identification Law No. 2/2004** establishes a precise legal framework for the issuance of Timorese Identity Cards to Timorese nationals in order to prevent falsification[25].

Under the provisions of the **Modification of Passport Regime Decree-Law No. 5/2003**, the Ministry of Justice (Central Civil Registration) and the Consular Divisions of Timor-Leste abroad, the competent authorities, can issue common passports only to Timorese citizens[26].

The **Passport Regime Decree-Law No. 2/2002** entitles an alien to be issued a passport when that person is stateless, is a national of a country without diplomatic representation in Timor-Leste, can prove unequivocally of its inability to obtain another passport or when an alien seeks diplomatic or consular protection abroad under an Agreement of Consular Cooperation between Timor-Leste and the country of origin. Only under exceptional circumstances and with the authorization of the Ministry of Justice, the consular authorities can issue passports to aliens who are outside the National Territory[27]. In addition, the law considers a criminal offence to make false declarations for the purpose of obtaining a passport, to forge a passport or the official seal or to use a forged passport[28].

Following bilateral discussions with Indonesia in November 2003, the Government of Timor-Leste planned to issue special travel documents to Timorese citizens residing in the vicinity of the border to facilitate their border crossings between Timor-Leste and Indonesia. Nevertheless due to a lack of financial resources the system has not yet been implemented with serious consequences on the effectiveness of the control of movement of persons across the land border.

Sub-paragraph 3 (a):

Could Timor-Leste provide the CTC with any relevant provisions in its domestic laws, which cover the requirement of this sub-paragraph of the Resolution?

1. Pending the adoption of an anti-terrorism legislation, the procedure outlined in sub-paragraph 2 (b) is applicable.

2. Timor-Leste is one of the Co-Founders of the Southwest Pacific Dialogue (SWPD) together with Australia, Indonesia, New Zealand, the Philippines and Papua New Guinea. On October 2002, at the inaugural meeting in Yogyakarta, Indonesia, the SWPD Ministers

[24] See Article 16 (Travel Documents and Substituting Documents), Chapter III and Article 129 (Identification of Foreigners), Chapter XV.
[25] See Articles 6 –17, Chapter II.
[26] See Article 1.
[27] See Article 13.
[28] Article 37 of Decree-Law No. 2/2002.

agreed to focus their dialogue on political and security and other issues of common concern such as refugees, terrorism, people smuggling, transnational crimes, marine-related issues, education and economic development.

3. Timor-Leste participates in the Inter-Governmental Asia-Pacific Consultations on Refugees, Displaced Persons and Migrants (APC).

4. Timor-Leste also participated in the Trilateral Ministerial Meeting between Indonesia, Australia and Timor-Leste at the level of Foreign Ministers. This initiative provided an excellent opportunity for Timor-Leste to share issues of common interest such as security developments in the region, terrorism and transnational organized crime. The first and the second Trilateral Meeting were held in Bali, Indonesia in February 2002 and in Adelaide, Australia in August 2003 respectively.

5. Timor-Leste is also an active participant in the Regional Bali Ministerial Conference on People Smuggling, Trafficking in Persons and Transnational Crimes, known as the "Bali Process"[29]. The conference concluded with the Ministers of Asia-Pacific's commitment to enhance regional cooperation in combating and addressing the issue of people smuggling, trafficking in persons and transnational crime.

6. Timor-Leste also attended the Regional Ministerial Meeting on counter-Terrorism, Bali, 4 - 5 of February 2004. The meeting explored practical ways to strengthen counter-terrorism coordination and cooperation in the Asia-Pacific region, particularly in the critical areas of law enforcement, information sharing and legal frameworks.

Sub-paragraph 3 (c):

The CTC would welcome receiving a list of any bilateral treaties concluded, or planned to be concluded in the near future, between Timor-Leste and other States aimed at preventing and suppressing terrorist attacks.

As mentioned in sub-paragraph 2 (f), the Government of Timor-Leste signed two bilateral agreements with the Government of Australia in order to cooperate in combating illegal immigration, people smuggling, and terrorism.

Sub-paragraph 3 (d):

The CTC would welcome receiving a progress report on Timor-Leste's intention, indicated at page 4 of its report, of becoming as soon as possible a party to the universal international instrument related to the prevention and suppression of terrorism.

Timor-Leste attaches the highest priority to the accession to the 12 major UN Conventions on counter-terrorism and the UN Convention against Transnational Organized Crime (2003). In particular, the Government is currently considering its accession to the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents (1973); the Convention against Transnational Organized Crime (2003),

[29] Timor Leste participated in the first and the second Bali Ministerial Conference in 2002 and 2003 respectively.

and the South-East Asia Association for Regional Cooperation Convention on Preventing and Combating Trafficking in Women and Children for Prostitution (2002).

Sub-paragraph 3 (f):

How does Timor-Leste intend fulfilling the requirements of this sub-paragraph of the Resolution, particularly as regards the granting of refugee status? Has Timor-Leste any legislation in place to ensure that the persons referred to in sub-paragraph 2 (c) of the Resolution are not granted refugee status?

1. On May 2003, Timor-Leste became party to the 1951 Geneva Convention relating to the Status of Refugees and to the 1967 New York Protocol relating to the Status of Refugees.

2. To fully implement the legal provisions contained in the Conventions, the National Parliament adopted the Immigration and Asylum Law No. 9/2003, which, *inter alia*, provides the legal framework within which a person may be granted or have his/her refugee status revoked.

(i) Under the provisions of Law No. 9/2003, asylum cannot be granted to those who have committed crimes against peace, war crimes or crimes against humanity, as described in international instruments designed to preventing such crimes; nor to those who have willfully committed crimes of common law punishable with more than three years of imprisonment; nor to those who have performed any actions contrary to the purposes and principles of the United Nations. Asylum can also be denied if granting it results in a proven risk or justified threat to internal or external security, or to public order[30].

(ii) Once the refugee or exiled status is granted the beneficiary cannot carry out activities that might endanger internal or external security or public order, or that harm relations of the Democratic Republic of Timor-Leste with other States; nor activities that are contrary to the goals and principles of the United Nations or of international treaties and conventions to which the Democratic Republic of Timor-Leste is party to or adheres to[31].

(iii) The right to asylum and, thus, the status of refugee, can be lost when the beneficiary carries out prohibited acts or activities; when the basis invoked for the granting of asylum proved to be false; when are revealed some facts, which if known at the time of the granting, would have resulted in a negative decision; or when a judicial decision to deport the individual given asylum is taken by the competent authorities[32].

All decision of expulsion from the National Territory must be notified to the United Nations High Commissioner for Refugees Representative[33].

[30] See Article 86 (Deportation and Right to Asylum), Section II.
[31] See Article 90, (Prohibited Acts), Section II.
[32] See Article 107 (Causes for Loss of the Right to Asylum), Section II.
[33] See Article 95 (2) (Summary Facts Finding and Decision), Section II.

Sub-paragraph 3 (g):

Is there a special law providing for extradition in Timor-Leste? Could Timor-Leste outline what statutory reasons exist for refusing extradition requests under its domestic law?

1. The **Constitution**, in its Article 35, states that extradition shall take place only following a decision issued by the Court. Extradition shall not be based on political grounds and cannot be authorized when the offence committed by the person is punished by death penalty or life imprisonment or whenever there are grounds to assume that the person may fear torture or other inhuman, degrading and cruel treatment. Furthermore, a Timorese national shall not be expelled or expatriated from the National Territory.

Could Timor-Leste also provide the CTC with the criteria, which it applies to determine whether a particular offence constitutes a political offence under its domestic law? Are any of the offences mentioned under sub-paragraph 2 (c) of the Resolution considered as political offences under the domestic law of Timor-Leste? If not, the CTC would be grateful to receive a copy of the relevant domestic provisions.

As mentioned above in respect to sub-paragraph 2(f), Timor-Leste is in the process of building its institutions, including its criminal justice system. Its agenda is heavy. It is presently dwelling with the preparation of what will become its Criminal Code and it's Code of Criminal Procedure. The question of political offences shall be examined in that context.

Sub-paragraph 4:

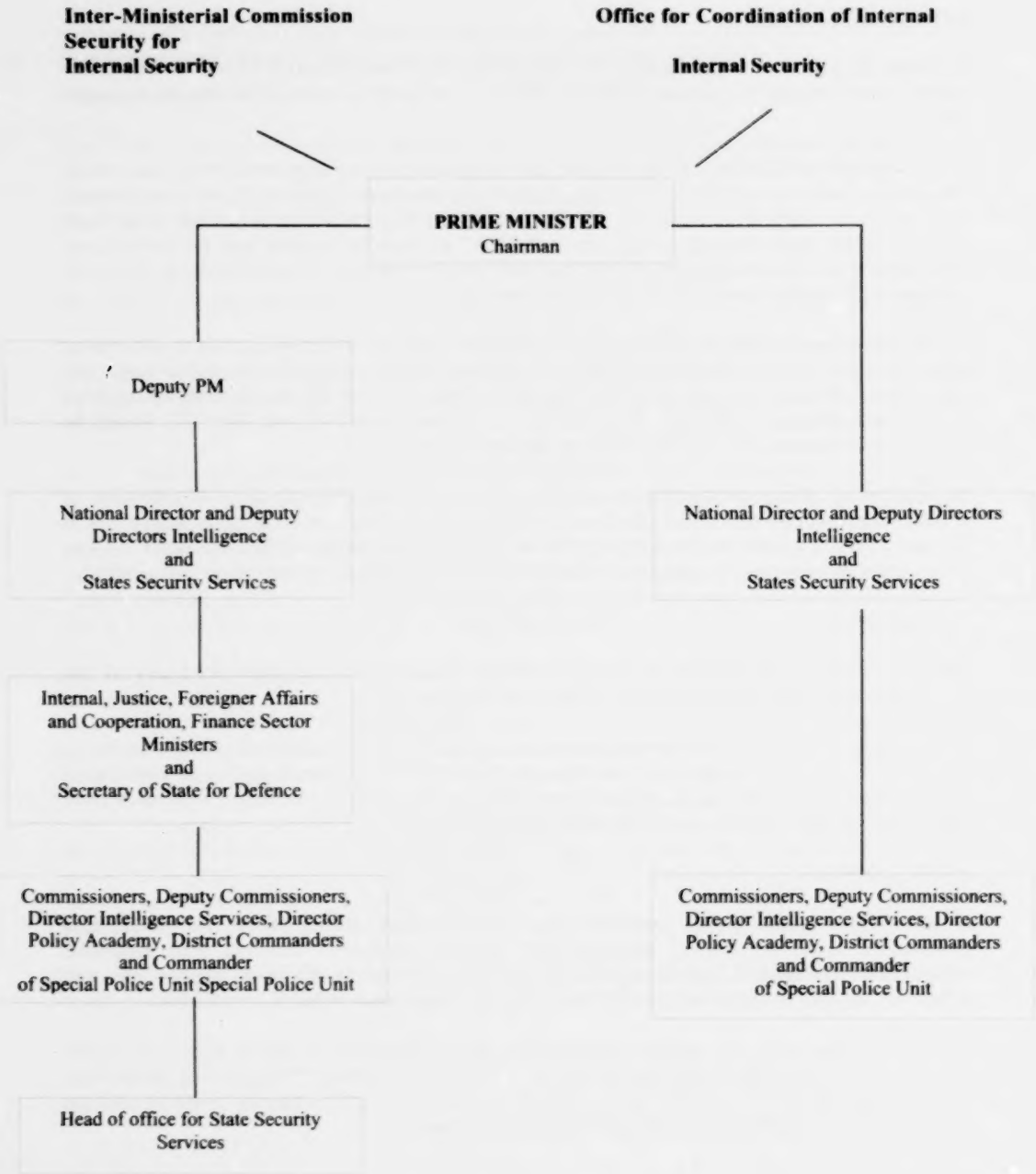
The CTC would be grateful to know whether Timor-Leste has addressed any of the concerns expressed in paragraph 4 of the Resolution.

As mentioned above, in order to implement sub-paragraph 4 of Security Council Resolution 1373 (2001), the Government of Timor-Leste is considering becoming party to the United Nations Convention on Transnational Crime (2003) and requested technical assistance from the IMF in drafting an anti-money laundering legislation.

Other matters:

Could Timor-Leste please provide an organizational chart of its administrative machinery, such as police, immigration control, customs, taxation and financial supervision authorities, established to give practical effect to the laws, regulations and other documents that are seen as contribution to compliance with the resolution.

The Internal Security Act aims at guaranteeing the enforcement of public peace and order, the protection of people and property and the prevention of crime. To implement these aims, the Act establishes two bodies: Inter-Ministerial Commission for Internal Security and the Office for the Coordination of Internal Security (see below).


Inter-Ministerial Commission
Security for
Internal Security
Office for Coordination of Internal
Internal Security
PRIME MINISTER
Chairman
Deputy PM
National Director and Deputy
Directors Intelligence
and
States Security Services
Internal, Justice, Foreigner Affairs
and Cooperation, Finance Sector
Ministers
and
Secretary of State for Defence
Commissioners, Deputy Commissioners,
Director Intelligence Services, Director
Policy Academy, District Commanders
and Commander
of Special Police Unit Special Police Unit
Head of office for State Security
Services
National Director and Deputy Directors
Intelligence
and
States Security Services
Commissioners, Deputy Commissioners,
Director Intelligence Services, Director
Policy Academy, District Commanders
and Commander
of Special Police Unit

The CTC is aware that Timor-Leste may have covered some or all of the points in the preceding paragraph in reports or questionnaires submitted to other organizations involved in monitoring international standards. The CTC would be content to receive a copy of any such report or questionnaire as part of Timor-Leste's response to these matters as well as details of any efforts to implement international best practices, codes and standard which are relevant to the implementation of Resolution 1373.

Timor-Leste has ratified five international Conventions related to nuclear disarmament: Biological and Toxin Weapons Convention (BWC), 1972; Chemical Weapons Convention (CWC), 1993; Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction, 1997; Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, 1949; and the Treaty on the Non-proliferation of Nuclear Weapons, 1968. In relation to the protection and promotion of human rights, Timor-Leste has ratified thirteen international Conventions and Protocols. The country's first reports to the Human Rights Treaty Bodies are due in April 2004. Timor-Leste will provide the CTC with all relevant reports upon their completion.

In addition, Timor-Leste will submit the report required pursuant to paragraphs 6 and 12 of Security Council Resolution 1455 (2003) within the terms established by paragraph 22 of Security Council Resolution 1526 (2004). A copy of this report will be transmitted also to the Counter-Terrorism Committee.

Mari Bin Amude Alkatiri
Prime Minister

Done in Dili, Timor-Leste, on 4th May 2004